

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-126-E – ORDER NO. 2004-506  
OCTOBER 19, 2004

IN RE: Proceeding to Review the Gas Supply	) ORDER DENYING
Agreement between South Carolina Electric	) MOTION OF SCE&G TO
& Gas Company and SCANA Energy	) DISMISS COLUMBIA
Marketing, Inc.	) ENERGY FROM THIS
	) PROCEEDING

Following a Petition to Intervene filed by Columbia Energy, LLC (“Columbia Energy”), South Carolina Electric & Gas Company (“SCE&G”) filed a Reply in Opposition to Columbia Energy’s Petition to Intervene. SCE&G’s opposition to Columbia Energy’s intervention is before the Commission for disposition.

By its Reply, SCE&G alleges that Columbia Energy’s Petition to Intervene does not meet the requirements of Commission Regulation 103-836 (A)(3) for intervention. SCE&G submits that Columbia Energy has not asserted in its Petition any facts from which the nature of Columbia Energy’s alleged rights or interests in this matter can be determined, or any relevant position that would allow Columbia Energy to intervene in this proceeding. Columbia Energy has not asserted any concerns with SCE&G’s electric rates or the impact of those rates on its business. SCE&G notes that Columbia Energy is a South Carolina Pipeline Corporation (“SCPC”) customer for gas, not a customer of SCANA Energy Marketing, Inc. (“SEMI”).

SCE&G also alleges that Columbia Energy's Petition to Intervene fails to meet the standard for intervention required by South Carolina Rule of Civil Procedure ("SCRCP") 24. Under SCRCP Rule 24(a)(1), anyone may intervene where a statute confers an unconditional right of intervention. SCE&G asserts that no such statutory right has been asserted or exists here. Under Rule 24(a)(2), upon timely application, anyone may intervene in an action if he "claims an interest relating to the property or transaction which is the subject of the action." SCE&G alleges that while Columbia Energy has made a timely application for intervention in this proceeding, Columbia Energy has asserted a questionable interest and should not be allowed to intervene in this proceeding. SCE&G further asserts that Columbia Energy has made no showing of a legally protectable interest related to the transaction in this proceeding or, that Columbia Energy has not demonstrated a direct, legally protectable interest sufficient to warrant intervention under the SCRCP Rules. SCE&G further argues that Columbia Energy's interest would adequately be protected by the Consumer Advocate in this docket. In effect, SCE&G alleges that Columbia Energy's interest in this proceeding is purely to gain competitive information or to gain a competitive advantage by gaining access to pricing or other sensitive arrangements.

Columbia Energy filed a Return to SCE&G's Motion to Dismiss. In its Return, Columbia Energy states that it has a direct, substantial, and legally protected interest which warrants intervention in this proceeding. Columbia Energy is a customer of SCE&G and takes electric service from SCE&G for its backfeed power. Thus, the rates Columbia Energy pays for this service are a function of SCE&G's electric rates, and

those same rates may be impacted with the burden imposed by these new contracts. As such, the rates charged Columbia Energy by SCE&G have a direct impact on Columbia Energy's competitive position. Columbia Energy states that the remedy for addressing SCE&G's concerns is not dismissing Columbia Energy from the proceeding but for the entry of an appropriate protective order.

Upon consideration of the Motion to Dismiss Columbia Energy from this proceeding, the Commission finds and concludes that Columbia Energy has made substantial allegations of possessing a real interest in the outcome of this proceeding. However, the Commission recognizes that a simple protective order may not be sufficient to preserve certain proprietary information in this proceeding. Although Columbia Energy is a customer of SCE&G, Columbia Energy is also a competitor of SCE&G's as acknowledged in its Petition for Intervention and Return to SCE&G's Motion to Dismiss. Due to the competitive nature which exists between Columbia Energy and SCE&G, the Commission finds that simple protective order may not be sufficient to preserve certain commercially sensitive and proprietary information. Due to the commercially sensitive nature and proprietary nature of certain information which SEMI and/or SCE&G may be required to present in discovery and at the hearing in this matter, the Commission will carefully consider any motions by the parties concerning the redaction or exclusion of portions of prefiled documents and testimony and discovery responses.

IT IS THEREFORE ORDERED THAT:

1. The Motion of SCE&G to Dismiss Columbia Energy from this proceeding is denied.

2. Due to the proprietary nature of certain information which SEMI and/or SCE&G may be required to present during discovery or at the hearing in this matter, the Commission hereby notifies the parties that it will carefully consider any motions by the parties concerning the redaction or exclusion of portions of prefiled documents and testimony and discovery responses. Further, the parties are hereby notified that the Commission will also carefully consider any motions concerning the treatment and protection of proprietary or commercially sensitive information.

3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)